

in accordance with the terms and conditions of the contracts and the public notice as issued by the Area Director.

(e) All irrigation districts may make such rules and regulations as they may find necessary in regard to the delivery of the water to water users within the district who are delinquent in their payments to the district of assessed irrigation charges. Such rules and regulations will be adhered to by the Officer-in-Charge when it appears to be in the best interests of the United States and the district to do so.

(f) Water will not be delivered to lands that are subject to construction assessments not paid in accordance with part 134 of this chapter.

(g) Flathead Indian Irrigation Project, Montana—(1) *Secretarial Water Right holders.* (i) For all acres recognized by the Secretary of the Interior as entitled to a “Secretarial Water Right”, the Officer-in-Charge is authorized to carry such water in the project’s carriage and distribution system and deliver it: *Providing*, That landowner holding such a right requests it and his land is so located that the water can be delivered without undue expense to the project. Before this service is provided, the landowner must also agree to pay a minimum of fifty (50) percent of up to a maximum of one hundred (100) percent of the annual operation and maintenance charges as assessed against project lands in the same general area as his. Under such agreement the project will not be obligated to deliver more than that allowed for each acre of land under the Secretary’s private water right findings less a proportionate share of the project’s normal losses in transporting the water from the point of entry into the project’s system to the point of delivery.

(ii) “Secretarial Water rights” are defined as those rights allocated to Indian allotments by the Assistant Secretary of the Interior by his approval on November 25, 1921, of the findings of the Commission appointed by him to investigate the “private rights” on the Flathead Indian Reservation. Authority: Sec. 9, Act of May 29, 1908 (35 Stat. 449).

(2) *Pump lands—Flathead Irrigation Project.* (i) The Officer-in-Charge is au-

thorized to deliver irrigation water to lands (pump lands) within a project farm unit that are too high to be served from the project’s gravity flow system: *Providing*, The holder of legal title to the lands so requests it in writing and agrees to have such land designated by the Secretary of the Interior or his authorized representative as a part of the irrigation project. Land so designated shall be subject to the assessment and payment of the pro rata per acre share of the project’s construction, operation and maintenance costs the same as all other lands within the irrigation project in the same general area. In addition, such “pump lands” shall be obligated to pay an additional assessment on an annual basis as determined by the Officer-in-Charge to defray the cost of pumping the water from the Flathead River for those lands in the Mission Valley Division, and from the Little Bitterroot Lake for lands in the Camas Division.

(ii) At the time he submits the request, the landowner must also agree in writing to include the “pump lands” in an existing irrigation district or a district that may be subsequently formed pursuant to the laws of the State of Montana. This will not apply to Indian trust or restricted lands as such lands cannot be included within an irrigation district.

(iii) A request for the inclusion of “pump lands” into the project will not be considered until the Officer-in-Charge determines that there is sufficient project water available to serve these lands without adversely affecting in any way the water entitlement of the designated project lands for which the project was designed and constructed.

(iv) All costs incidental to the pumping and distribution of the delivered water from the project farm unit delivery point to the “pump lands” shall be borne by the landowner.

#### § 171.18 Service or farm ditches.

The service or farm ditches into which water is delivered from project canals or laterals must have ample capacity and be maintained by the water user in proper condition to receive water and convey it to the place of use with a minimum of loss. Water delivery

will be refused to such ditches not satisfactorily maintained. Project irrigation water shall be put to beneficial use.

**§ 171.19 Operation and maintenance assessments.**

(a) Operation and maintenance assessments will be levied against the acreage within each allotment, farm unit or tribal unit that is designated as assessable and to which irrigation water can be delivered by the project operators from the constructed works whether water is requested or not, unless specified otherwise in this section.

(1) *Colville Indian Irrigation Project, Washington.* Operation and maintenance assessments will be levied against all patent in fee and Indian trust lands to which water can be delivered for irrigation and for which an application for water has been made by the water user and approved by the Superintendent.

(2) *Wapato Irrigation Project-Toppenish-Simcoe Unit, Washington.* Operation and maintenance assessments will be levied against all lands which can be irrigated from the constructed works for which application for water is made annually and approved by the Project Engineer.

(b) Subdivided farm units—(1) *General.* (i) Where farm units, as defined in § 171.4 have been subdivided into smaller units, the Area Director or such official as he may so delegate may, at his discretion, fix a higher operation and maintenance rate for such subdivided acreage than the rate fixed for the acreage in the original farm unit. In such cases the higher rate will also be announced in the annual public notice.

(ii) In the event higher rates are fixed for a subdivided farm unit, the individual owners thereof may obtain for their lands the same rate as fixed for acreages within farm units not so divided by joining in a written contract with the other owners within the subdivided unit. Under such a contract, the various owners will appoint an agent in whom shall be vested full power and authority to enter into a contract with the Area Director, hereafter referred to as the Contracting Officer, or such official as he may so authorize, covering the water rights for the entire area of

the several small acreages: *Provided, however,* Such contract must not represent less acreage than that included in the original farm unit unless a smaller unit has been established by project regulation as eligible for a subdivision contract; *And provided further,* That whether the contract involves acreage in one or more farm units, it must represent contiguous acreages.

(iii) The contract between the agent of the owners of the small tracts and the Contracting Officer shall be executed on or before February 1 of the year preceding the next irrigation season. The agent shall at the time of the execution of this contract, on a form approved by the Secretary of the Interior, furnish a certified copy of the contract executed by the several landowners of the subdivided tract appointing the agent to act in their behalf.

(iv) Any owner of a tract within a subdivided unit, with the written consent of the owners of a majority of the acreage, under a contract as set forth in paragraph (b)(1)(iii) of this section, may voluntarily withdraw from the contract by filing a written notice of his intent to withdraw with the Contracting Officer on or before February 1 of the year, such withdrawal is to be effective, together with the consent of the owners of the majority of the acreage endorsed thereon; *Provided,* That, the remaining acreage is contiguous; such withdrawal does not reduce the remaining acreage under the contract to less than the acreage included in the original farm unit before it was subdivided or less than the minimum acreage established on a project as eligible for a subdivision contract; and all irrigation charges due under said contract have been paid. Upon the receipt of said notice, the Contracting Officer, if the notice meets the requirements as herein provided, shall note his approval thereon and send a copy thereof to the agent of the landowners. Thereafter the land of the withdrawing owner shall no longer be subject to the contract.

(v) If one or more owners under a contract desire to withdraw, and if, by so doing, it would reduce the total remaining contiguous acreage under the contract to less than the total acreage included in the original farm unit, or